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California Corporations Commissioner
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7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA

11 In the Matter of the Accusation/Statement of) File No.: 963-1996
Issues of THE CALIFORNIA)
12 CORPORATIONS COMMISSIONER,) ORDER BARRING TIMOTHY RORY
) DELANEY FROM ANY POSITION OF
13 Complainant,) EMPLOYMENT, MANAGEMENT OR
) CONTROL OF ANY ESCROW AGENT
14 vs.) PURSUANT TO CALIFORNIA FINANCIAL
) CODE SECTION 17423
15)
16 VINEYARD ESCROW and TIMOTHY RORY)
DELANEY,)
17)
18 Respondents.)

19 Pursuant to the Settlement Agreement entered into between Vineyard Escrow (“Vineyard”) and Timothy Rory Delaney (“Delaney”), on the one hand, and the California Corporations Commissioner ("Commissioner"), on the other hand, on March 24, 2006, Timothy Rory Delaney is hereby barred from any position of employment, management or control of any escrow agent for a period of one year. This Order is effective as of the date hereof.

24 Pursuant to the terms of the Settlement Agreement, Delaney admits the following for purposes of this action and any future proceedings initiated by or brought before the California Corporations Commissioner only:

- 27 1. Vineyard is a California corporation and currently holds escrow agent’s license
- 28 number 963-1996 with a main office located at 27727 Jefferson Avenue, Temecula, California

92590, and a branch office located at 3349 W. Florida Avenue, Hemet, California 92590. Vineyard has been licensed by the Commissioner pursuant to the California Escrow Law since March 27, 2003.

2. Delaney is, and was at all times relevant, the president, sole shareholder and a director of Vineyard.

3. Fudosan, Inc. (“Fudosan”) is an affiliate of Vineyard and is licensed as a real estate broker by the California Department of Real Estate. Delaney is the president of Fudosan.

4. On June 15, 2005, Vineyard filed its application for an escrow agent's branch license to be located at 29955 Technology Drive, Murrieta, California 92563, File No. 863-1461, with the Commissioner pursuant to the California Escrow Law, in particular, Financial Code Section 17213.5. Delaney verified the application as president of Vineyard. The application identified Delaney as the president, sole shareholder and a director of Vineyard.

5. On February 8, 2005, the Commissioner commenced a regulatory examination of the books and records of Vineyard. The regulatory examination revealed that trust funds in the amount of \$1,887,794.64 had been deposited into the trust account of Fudosan, instead of the Vineyard trust account in violation of California Financial Code section 17409 and California Code of Regulations, title 10, section 1737(a). At least \$899,971.18 of the Vineyard trust funds wrongfully deposited into the Fudosan account were allowed to remain in the Fudosan account for anywhere from one to eleven months. During this time, certain of these trust funds were used for the operations of Fudosan, Inc. The commingling of trust funds by Vineyard resulted in a trust account shortage and numerous ongoing debit balances in violation of California Code of Regulations, title 10, section 1738.1. Vineyard corrected the trust account shortage caused by the unlawful deposits of trust funds; however, it appears that trust funds from an affiliate were used to correct the trust fund shortage of Vineyard. The commingling and misuse of trust funds was as follows:

A. Vineyard escrow number 03-3170

On August 13, 2003, receipt number 6349 was issued in the amount of \$32,508.91, however, the funds were deposited into the trust account of Fudosan in violation of California Financial Code section 17409 and California Code of Regulations, title 10, section 1737(a). The

1 trust funds were not transferred to the trust account of Vineyard until January 23, 2004, causing a
2 shortage (debit balance) of \$32,508.91 in the trust account from August 13, 2003 until January 23,
3 2004.

4 B. Vineyard escrow number 03-3239

5 On August 22, 2003, receipt number 6392 was issued in the amount of \$250,374.74,
6 however, the funds were deposited into the trust account of Fudosan in violation of California
7 Financial Code section 17409 and California Code of Regulations, title 10, section 1737(a). The
8 trust funds were not transferred to the trust account of Vineyard until January 23, 2004, causing a
9 further shortage of \$250,374.74 in the trust account from August 22, 2003 until January 23, 2004.

10 C. Vineyard escrow number 03-3254

11 On September 2, 2003, receipt number 6434 was issued in the amount of
12 \$147,492.87, however, the funds were deposited into the trust account of Fudosan in violation of
13 California Financial Code section 17409 and California Code of Regulations, title 10, section
14 1737(a). The trust funds were not transferred to the trust account of Vineyard until October 23,
15 2003, causing a further shortage of \$147,492.87 in the trust account from September 2, 2003 until
16 October 23, 2003.

17 D. Vineyard escrow number 03-3228

18 On September 3, 2003, receipt numbers 6435 and 6436 were issued in the respective
19 amounts of \$56,298.61 and \$3,000.00, however, the funds were deposited into the trust account of
20 Fudosan in violation of California Financial Code section 17409 and California Code of Regulations,
21 title 10, section 1737(a). The trust funds were not transferred to the trust account of Vineyard until
22 October 23, 2003, causing a further shortage of \$59,298.61 in the trust account from September 3,
23 2003 until October 23, 2003.

24 E. Vineyard escrow number 03-3260

25 On September 19, 2003, receipt number 6505 was issued in the amount of
26 \$109,092.27, however, the funds were deposited into the trust account of Fudosan in violation of
27 California Financial Code section 17409 and California Code of Regulations, title 10, section
28 1737(a). The trust funds were not transferred to the trust account of Vineyard until October 23,

2003, causing a further shortage of \$109,092.27 in the trust account from September 19, 2003 until October 23, 2003.

F. Vineyard escrow number 03-3299

On October 30, 2003, receipt number 6639 was issued in the amount of \$161,031.06, however, the funds were deposited into the trust account of Fudosan in violation of California Financial Code section 17409 and California Code of Regulations, title 10, section 1737(a). The trust funds were not transferred to the trust account of Vineyard until October 21, 2004, causing a further shortage of \$161,031.06 in the trust account from October 30, 2003 until October 21, 2004.

G. Vineyard escrow number 03-3338

On November 25, 2003, receipt number 6703 was issued in the amount of \$140,172.72, however, the funds were deposited into the trust account of Fudosan in violation of California Financial Code section 17409 and California Code of Regulations, title 10, section 1737(a). The trust funds were not transferred to the trust account of Vineyard until October 21, 2004, causing a further shortage of \$140,172.72 in the trust account from October 30, 2003 until October 21, 2004.

H. Misuse:

During the period of October 2003 through October 31, 2004 certain of the Vineyard trust funds unlawfully deposited into the bank account of Fudosan had been used for the operations of Fudosan in violation of California Financial Code section 17414(a)(1).

I. Commingling – Fudosan to Vineyard:

On at least 3 occasions, trust funds belonging to the Fudosan trust account were either deposited and/or transferred into the Vineyard trust account in violation of California Financial Code section 17411 as follows:

a. On September 25, 2003, a wire in the amount of \$266,404.62 designated for Fudosan was deposited into the Vineyard trust account in violation of California Financial Code section 17411. The Fudosan trust funds were not transferred to the trust account of Fudosan until October 6, 2003.

1 b. On November 14, 2003, the amount of \$10,000.00 was transferred from the
2 Fudosan trust account to the Vineyard trust account in violation of California Financial Code section
3 17411. The Fudosan trust funds were not transferred back to the trust account of Fudosan until
4 October 21, 2004.

5 c. On November 18, 2003, the amount of \$200,000.00 was transferred from the
6 Fudosan trust account to the Vineyard trust account in violation of California Financial Code section
7 17411. The Fudosan trust funds were not transferred back to the trust account of Fudosan until
8 October 21, 2004. A review of the bank account records of Vineyard disclosed that Vineyard had
9 insufficient funds to meet its disbursements at the time the \$200,000.00 in Fudosan trust funds was
10 transferred to the Vineyard trust account.

11 Dated: June 23, 2006
12 Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

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14 By _____
15 Kathleen R. Partin
16 Special Administrator
17 California Escrow Law
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